

CHAPTER 277

GOVERNMENT - STATE

HOUSE BILL 14-1017

BY REPRESENTATIVE(S) Duran, Buckner, Court, Exum, Fields, Fischer, Garcia, Ginal, Hamner, Hulinghorst, Kagan, Labuda, Lebsock, May, McCann, McLachlan, Melton, Mitsch Bush, Moreno, Pabon, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Singer, Vigil, Williams, Young, Ferrandino, Becker, Kraft-Tharp, Peniston, Schafer; also SENATOR(S) Ulibarri, Aguilar, Guzman, Heath, Hodge, Johnston, Jones, Kefalas, Kerr, Newell, Nicholson, Schwartz, Steadman, Tochtrop, Todd, Zenzinger, Carroll.

AN ACT

CONCERNING MEASURES TO EXPAND THE AVAILABILITY OF AFFORDABLE HOUSING IN THE STATE, AND, IN CONNECTION THEREWITH, MAKING MODIFICATIONS TO STATUTORY PROVISIONS ESTABLISHING THE HOUSING INVESTMENT TRUST FUND, THE HOUSING DEVELOPMENT GRANT FUND, AND THE LOW-INCOME HOUSING TAX CREDIT.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 24-32-717, **amend** (1), (2), and (3); and **add** (3.5) as follows:

**24-32-717. Housing investment trust fund - loans - definitions.** (1) (a) ~~For the purpose of meeting the federal matching fund requirements of Title II of the federal "National Housing Act",~~ The division shall establish a ~~home~~ HOUSING investment trust fund, ~~which shall be created and administered pursuant to the provisions of 24 CFR part 92, as may be amended from time to time~~ REFERRED TO IN THIS SECTION AS THE "TRUST FUND". The division shall pay into ~~such~~ THE TRUST fund any moneys made available by the ~~state or federal government~~ GENERAL ASSEMBLY, ALL MONEYS COLLECTED BY THE DIVISION FOR PURPOSES OF THIS SECTION FROM FEDERAL GRANTS AND FROM OTHER CONTRIBUTIONS, GIFTS, GRANTS, AND DONATIONS RECEIVED FROM ANY OTHER ORGANIZATION, ENTITY, OR INDIVIDUAL, PUBLIC OR PRIVATE, AND FROM ANY FEES OR INTEREST EARNED ON SUCH MONEYS, WHICH MONEYS THE DIVISION IS HEREBY AUTHORIZED AND DIRECTED TO SOLICIT, ACCEPT, EXPEND, AND DISBURSE ~~for the purpose of making loans or loan guarantees and for program administration as provided in this section.~~ Any moneys in ~~such~~ THE TRUST fund at the end of any fiscal year ~~shall~~ do not revert to the general fund. THE MONEYS IN THE TRUST FUND ARE HEREBY CONTINUOUSLY

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

APPROPRIATED TO THE DIVISION FOR THE PURPOSES SPECIFIED IN THIS SECTION. FOR ANY GIVEN STATE FISCAL YEAR, NO MORE THAN THREE PERCENT OF THE MONEYS APPROPRIATED FROM THE TRUST FUND MAY BE EXPENDED FOR THE ADMINISTRATIVE COSTS OF THE DIVISION IN ADMINISTERING THE TRUST FUND.

~~(b) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, on June 1, 2009, the state treasurer shall deduct one million two hundred eighty-four thousand dollars from the home investment trust fund and transfer such sum to the general fund.~~

(2) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, upon the approval of the board, the division may make a loan from moneys in the ~~home investment trust fund to any local housing authority, public nonprofit corporation, or private nonprofit corporation~~ for development or redevelopment costs incurred prior to the completion ~~or occupancy~~ of low- or moderate-income housing or for the rehabilitation of such housing. The interest rate on such loan shall be determined by the board and set forth in the loan agreement signed by the applicant. In conjunction with the making of such loan, the division shall require the borrower to furnish collateral security in such amounts and in such form as the division shall determine to be necessary to assure the payment of such loan and the interest thereon as the same become due. The loan shall be subject to the terms and conditions imposed by the division and shall be repaid within the time and in the manner specified by the division in the loan agreement. IN MAKING LOANS OF MONEYS FROM THE TRUST FUND, THE DIVISION SHALL GIVE PRIORITY TO OWNERS OF PROPERTY THAT WAS EITHER DESTROYED OR INCURRED SUBSTANTIAL DAMAGE AS A RESULT OF ONE OR MORE STATE OR FEDERALLY DECLARED NATURAL DISASTERS.

(3) As principal and interest payments are received by the division from the borrower, such moneys shall be deposited in the ~~home investment trust fund~~.

(3.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED:

(a) THE DIVISION MAY CHARGE THE BORROWER AN ORIGINATION FEE FOR LOANS MADE FROM THE TRUST FUND. THE FEE MUST BE USED FOR DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THE TRUST FUND;

(b) THE DIVISION SHALL NOT GUARANTEE ANY LOAN MADE TO A FOR-PROFIT ORGANIZATION OR ENTITY UNLESS THE LOAN IS SECURED ON A RECOURSE BASIS; AND

(c) THE TOTAL AMOUNT OF LOAN GUARANTEES THAT MAY BE MADE BY THE DIVISION AGAINST THE TRUST FUND SHALL NOT EXCEED EITHER TWO MILLION DOLLARS FOR ANY ONE PROJECT OR UP TO FIVE MILLION DOLLARS FOR ALL SUCH PROJECTS AT ANY ONE TIME.

**SECTION 2.** In Colorado Revised Statutes, **amend** 24-32-721 as follows:

**24-32-721. Colorado affordable housing construction grants and loans - housing development grant fund - creation.** (1) There is hereby created in the state treasury the housing development grant fund, which fund shall be administered by the division and is referred to in this section as the "fund". The fund shall consist

of moneys appropriated to the Colorado affordable housing construction grants and loan fund by the general assembly, all moneys collected by the division for purposes of this section from federal grants, ~~and other contributions, grants, gifts, bequests, and donations received from other governmental entities, individuals, private organizations, or foundations and any interest earnings on such moneys, which~~ moneys FROM OTHER CONTRIBUTIONS, GIFTS, GRANTS, AND DONATIONS RECEIVED FROM ANY OTHER ORGANIZATION, ENTITY, OR INDIVIDUAL, PUBLIC OR PRIVATE, AND FROM ANY FEES OR INTEREST EARNED ON SUCH MONEYS. The division is hereby authorized and directed to solicit, accept, expend, and disburse ALL MONEYS COLLECTED FOR THE FUND FROM THE SOURCES SPECIFIED IN THIS SUBSECTION (1) for the purpose of making grants or loans AND FOR PROGRAM ADMINISTRATION as provided in this section. All such moneys shall be transmitted to the state treasurer to be credited to the fund. The moneys in the fund are hereby continuously appropriated to the division for the purposes of this section. The moneys in the fund may be expended for the purpose of funding activities initiated during the ~~2008-09~~ CURRENT state fiscal year that are to be completed in subsequent state fiscal years.

(2)(a) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, upon the approval of the board, the division may make a grant or loan from moneys in the fund to improve, preserve, or expand the supply of affordable housing ~~and to finance foreclosure prevention activities~~ in Colorado as well as to fund the acquisition of housing and economic data necessary to advise the board on local housing conditions. IN MAKING LOANS OF MONEYS OR GRANTS FROM THE FUND, THE DIVISION SHALL GIVE PRIORITY TO OWNERS OF PROPERTY THAT WAS EITHER DESTROYED OR INCURRED SUBSTANTIAL DAMAGE AS A RESULT OF ONE OR MORE STATE OR FEDERALLY DECLARED NATURAL DISASTERS WHERE THE PROPERTY OWNER HAS RECEIVED THE MAXIMUM INSURANCE PROCEEDS AND PUBLIC DISASTER ASSISTANCE.

~~(b) In the case of any loan made from moneys in the fund for which the division is the primary lender, the borrower shall be required to seek replacement loans or funding no later than one hundred eighty days from the date of the loan.~~

~~(c) The authorization granted to the division in paragraph (a) of this subsection (2) to make a grant or loan from moneys in the fund to finance foreclosure prevention activities in the state is repealed, effective June 30, 2011.~~

(3) (a) Any moneys in the fund not expended or encumbered from any appropriation at the end of any fiscal year, including interest earned on the investment or deposit of moneys in the fund, shall remain in the fund and shall not revert to the general fund or any other fund and shall remain available for expenditure by the division in the next fiscal year for the purposes specified in subsection (2) of this section without further appropriation.

~~(b) Notwithstanding any other provision of this section, not more than two hundred fifty thousand dollars may be appropriated from the general fund pursuant to this section in any one state fiscal year for any uses not related to construction grants or loans~~ THE DIVISION, IN ITS DISCRETION, MAY TRANSFER TWENTY PERCENT OF THE BALANCE OF MONEYS IN THE FUND INTO THE HOUSING INVESTMENT TRUST FUND ESTABLISHED IN SECTION 24-32-717 (1) (a), WHICH BALANCE IS CALCULATED AS OF JULY 1 OF THE STATE FISCAL YEAR IN WHICH THE MONEY IS TRANSFERRED. FOR ANY GIVEN STATE FISCAL YEAR, NO MORE THAN THREE PERCENT OF THE

MONEYS APPROPRIATED FROM THE FUND MAY BE EXPENDED FOR THE ADMINISTRATIVE COSTS OF THE DIVISION IN ADMINISTERING THE FUND.

**SECTION 3.** In Colorado Revised Statutes, 39-22-2101, **amend** (5), (7), and (11) as follows:

**39-22-2101. Definitions.** As used in this part 21, unless the context otherwise requires:

(5) "Credit period" means the period of ~~four~~ **six** taxable years beginning with the taxable year in which a qualified development is placed in service. If a qualified development is comprised of more than one building, the development shall be deemed to be placed in service in the taxable year during which the last building of the qualified development is placed in service.

(7) "Federal tax credit" means the federal low-income housing tax credit provided by section 42 of the internal revenue code. ~~but excluding the credit referred to in section 42 (h) (4) of the internal revenue code.~~

(11) "Qualified taxpayer" means an individual, a person, firm, corporation, or other entity that owns an interest, DIRECT OR INDIRECT, in a qualified development and is subject to the taxes imposed by this article.

**SECTION 4.** In Colorado Revised Statutes, 39-22-2102, **amend** (2) (d), (4), (6), (7) introductory portion, and (7) (a) as follows:

**39-22-2102. Credit against tax - low-income housing developments.** (2) The authority may allocate a credit to an owner of a qualified development by issuing to the owner an allocation certificate. The authority may determine the time at which such allocation certificate is issued. The credit shall be in an amount determined by the authority, subject to the following guidelines:

(d) The aggregate sum of credits allocated annually shall not exceed the limits set forth in subsection (7) of this section, EXCEPT FOR A QUALIFIED DEVELOPMENT THAT IS LOCATED IN A COUNTY THAT IS DESIGNATED BY THE QUALIFIED ALLOCATION PLAN AS HAVING BEEN IMPACTED BY A NATURAL DISASTER.

(4) No credit shall be allocated pursuant to this part 21 unless the qualified development is the subject of a recorded restrictive covenant requiring the development to be maintained and operated as a qualified development, AND IS IN ACCORDANCE WITH THE ACCESSIBILITY AND ADAPTABILITY REQUIREMENTS OF THE FEDERAL TAX CREDITS AND TITLE VIII OF THE "CIVIL RIGHTS ACT OF 1968", AS AMENDED BY THE "FAIR HOUSING AMENDMENTS ACT OF 1988", for a period of fifteen taxable years, or such longer period as may be agreed to between the authority and the owner, beginning with the first taxable year of the credit period.

(6) The allocated credit amount may be taken against the taxes imposed by this article for each taxable year of the credit period. Any amount of credit that exceeds the tax due for a taxable year may be carried forward as a tax credit against subsequent years' income tax liability up to ~~tax year 2012~~ **ELEVEN TAX YEARS** FOLLOWING THE TAX YEAR IN WHICH THE ALLOCATION WAS MADE ~~and shall~~ **MUST**

be applied first to the earliest years possible. Any amount of the credit that is not used shall not be refunded to the taxpayer.

(7) During each calendar year of the two-year period beginning ~~January 1, 2001~~ JANUARY 1, 2015, and ending ~~December 31, 2002~~ DECEMBER 31, 2016, the authority may allocate a credit, the full amount of which may be claimed against the taxes imposed by this article for each taxable year of the ~~four-year~~ SIX-YEAR credit period. The aggregate amount of all credits allocated by the authority in each calendar year of the two-year period beginning ~~January 1, 2001~~ JANUARY 1, 2015, and ending ~~December 31, 2002~~ DECEMBER 31, 2016, shall not exceed the amount of:

(a) Five million dollars for credits allocated pursuant to subsection (1) of this section and section 39-22-2105 combined, EXCEPT FOR AN ALLOCATION MADE TO A QUALIFIED DEVELOPMENT THAT IS LOCATED IN A COUNTY THAT IS DESIGNATED BY THE QUALIFIED ALLOCATION PLAN AS HAVING BEEN IMPACTED BY A NATURAL DISASTER.

**SECTION 5.** In Colorado Revised Statutes, **add** 39-22-2108 as follows:

**39-22-2108. Report to the general assembly.** (1) FOR EACH ALLOCATION YEAR, THE AUTHORITY SHALL, BY DECEMBER 31 OF THAT YEAR, PROVIDE A WRITTEN REPORT TO THE GENERAL ASSEMBLY AND SHALL FURTHER MAKE THE REPORT AVAILABLE TO THE PUBLIC. WITH RESPECT TO ALLOCATED STATE LOW-INCOME HOUSING TAX CREDITS UNDER SECTION 39-22-2102, THE REPORT MUST:

(a) SPECIFY THE NUMBER OF QUALIFIED DEVELOPMENTS THAT HAVE BEEN ALLOCATED SUCH TAX CREDITS DURING THE ALLOCATION YEAR AND THE TOTAL NUMBER OF UNITS SUPPORTED BY EACH DEVELOPMENT;

(b) DESCRIBE EACH QUALIFIED DEVELOPMENT THAT HAS BEEN ALLOCATED SUCH CREDITS INCLUDING, WITHOUT LIMITATION, THE GEOGRAPHIC LOCATION OF THE DEVELOPMENT, THE HOUSEHOLD TYPE AND ANY SPECIFIC DEMOGRAPHIC INFORMATION AVAILABLE ABOUT RESIDENTS INTENDED TO BE SERVED BY THE DEVELOPMENT, THE INCOME LEVELS INTENDED TO BE SERVED BY THE DEVELOPMENT, AND THE RENTS OR SET-ASIDES AUTHORIZED FOR EACH DEVELOPMENT; AND

(c) PROVIDE HOUSING MARKET AND DEMOGRAPHIC INFORMATION THAT DEMONSTRATES HOW THE QUALIFIED DEVELOPMENTS SUPPORTED BY THE TAX CREDITS ARE ADDRESSING THE NEED FOR AFFORDABLE HOUSING WITHIN THE COMMUNITIES THEY ARE INTENDED TO SERVE AS WELL AS INFORMATION ABOUT ANY REMAINING DISPARITIES IN THE AFFORDABILITY OF HOUSING WITHIN THOSE COMMUNITIES.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 29, 2014